

1 various classes having to do with therapy and  
2 recovery type things. I don't recall the  
3 specific classes at this point, I'm sorry.

4 Q Okay, more psychology type classes.  
5 Would that be correct?

6 A Yes, that's correct.

7 Q Okay, and how did you do in all of  
8 these classes. Did you make good grades,  
9 particularly in the psychology classes. Did  
10 you make good grades?

11 A I don't know that those were  
12 graded, so I'm not sure. I don't recall that.

13 Q Okay, how long did you live with  
14 Mr. Cresswell?

15 A I think approximately two years.

16 Q Okay, so you moved in with him when  
17 you were 16. Is that correct?

18 A Yes, that's correct.

19 Q And so you lived with him until you  
20 were convicted of another crime when you were  
21 18. Would that be true?

22 A Yes, that's correct.

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1 Q All right, and on December 9th of  
2 1992, you were working in a gym. Is that  
3 right?

4 A I don't remember the day  
5 specifically, the date specifically, but  
6 around that time yes, I was working in a gym.

7 Q Okay, and on that particular day  
8 the records show that on that day you  
9 propositioned an 11-year-old boy. Do you  
10 recall that?

11 A Can you define propositioned,  
12 please?

13 Q Sure, I can go into more detail  
14 about it. Or why don't you tell me what you  
15 recall happened?

16 A I recall that I was curiously -- I  
17 was sexually curious about the boy and his  
18 development, sexual maturity, and I invited  
19 him into the office in the gym and I asked  
20 him questions about puberty. I don't remember  
21 very specific questions.

22 I believe that I asked to see his

1 penis. I believe I also asked him to measure  
2 it. I may have volunteered to show mine,  
3 though I don't specifically recall that. -I  
4 believe that pretty much sums it up as far as  
5 I recall. It didn't go any further than that.  
6 I never saw his penis. He never saw my penis  
7 from what I recall.

8 And he was scared. I could tell he  
9 was scared and resistant and not interested,  
10 so I stopped. I didn't go any further. That  
11 was the end of that as far as I am aware of.

12 Q Isn't it true you had a similar  
13 conversation or -- strike that. Isn't it true  
14 that on several prior occasions you had had  
15 conversations with him to the effect that as  
16 a boy reaches puberty his muscles develop and  
17 his penis gets bigger?

18 A I believe that I had had some  
19 conversation with him in regards to that. I  
20 don't recall specifically if it was -- if all  
21 this conversation was on the same day or if it  
22 was spread out over a few days. But you know

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1 I believe there was probably some conversation  
2 about that.

3 Q Well if the charging documents when  
4 you were charged with communications with a  
5 minor for immoral purposes. If the charging  
6 documents indicate that you had had a series  
7 of conversations about that subject with this  
8 boy whenever he came into the gym, would you  
9 have any reasons to deny those statements?

10 A I can't object to that because I  
11 don't remember for sure. Like I said, I know  
12 for sure it was the one time I pretty clearly  
13 remember. Whether it was how many more times  
14 than that I don't recall if there were one  
15 time or a series of times.

16 Q And if the charging documents  
17 indicate that you took the boy to your office  
18 and asked him to measure his penis and  
19 convinced him that he should do that and he  
20 turned away from you to measure his penis, his  
21 flaccid penis. Do you recall that happening  
22 or do you have any reason to disbelieve that

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1 occurred?

2 A No, I do not. I did not see his  
3 penis though whether he -- I know he did turn  
4 away from me. Rather or not he really pulled  
5 his penis out I don't know because I never saw  
6 it.

7 Q So if the charging document  
8 indicates that you in fact went up to him and  
9 put your hand on his shoulder and looked at  
10 his penis you deny that. Is that correct?

11 A I don't deny that I may have put my  
12 hand on his shoulder to look. I don't recall  
13 that physically for sure. But I can tell you  
14 that I did not see his penis.

15 Q Okay, so if he thought you saw his  
16 penis he was mistaken?

17 A Yes, that's correct.

18 Q Okay, and did you then tell him you  
19 wanted to see his erect penis and asked him to  
20 measure it again while he was in your office?

21 A Ma'am I'm sorry, I can't remember  
22 the specific conversation that long ago. I

1 don't know what to tell you. I just can't.

2 Q Well you remember all this because  
3 you were sent to prison for it. So didn't  
4 this make an impression on you?

5 MR. LYON: Your Honor, I object.  
6 That's arguing with the witness.

7 JUDGE SIPPEL: I will sustain that  
8 objection.

9 BY MS. LANCASTER:

10 Q Do you not remember, you don't  
11 recall this conversation or what occurred as  
12 a result of it?

13 A Ma'am that was 15 years ago. I  
14 have tried to block a lot of that out of my  
15 mind. I have moved on with different parts of  
16 my life. There's no reason for me to retain  
17 every single one of these details in my mind.  
18 I'm sorry, I don't know what to tell you.

19 JUDGE SIPPEL: Want to take a  
20 recess?

21 MS. LANCASTER: Sure.

22 JUDGE SIPPEL: Hold on just a

1 second Mr. Titus. This might be a good time  
2 to take a break.

3 (Whereupon, off the record from  
4 12:14 p.m. until 1:22 p.m.)

5  
6  
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22

1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 1:22 p.m.

3 JUDGE SIPPEL: Okay, we're back on  
4 the record. You're still under oath Mr.  
5 Titus.

6 THE WITNESS: Okay.

7 JUDGE SIPPEL: So the next question  
8 is coming from Ms. Lancaster.

9 MS. LANCASTER: Your Honor, may I  
10 ask the reporter to just read back what my  
11 last question was so I know exactly what we  
12 were discussing before we broke?

13 MR. LYON: Preliminarily can I  
14 inquire whether your office received the fax  
15 from the clerks office of Benton County?

16 MS. LANCASTER: I do not know.

17 MR. KNOWLES-KELLETT: Can you help  
18 me. Do you know whose attention this fax is?

19 MR. LYON: I'm not sure that there  
20 was any attention given.

21 MS. LANCASTER: Yes, if you could  
22 just tell me what I last asked about.

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1 MR. LYON: You said you were almost  
2 done.

3 MS. LANCASTER: I said that. I  
4 don't think so.

5 THE WITNESS: The Benton County  
6 Clerk told me in email that three or four  
7 copies may have come through with that.

8 MR. LYON: Okay.

9 JUDGE SIPPEL: All right, thank  
10 you. We're just getting set here for a  
11 question.

12 And don't engage in argument  
13 please.

14 MS. LANCASTER: I'll try not to.

15 JUDGE SIPPEL: Okay, you all set to  
16 go Mr. Titus?

17 THE WITNESS: I'm set.

18 JUDGE SIPPEL: Okay, here we go.

19 BY MS. LANCASTER:

20 Q Mr. Titus, I want to go back to our  
21 discussion of your adult felony conviction for  
22 communications with a minor for immoral

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1 purposes.

2 You were 18 when you were convicted  
3 of that. Is that correct?

4 A Yes.

5 Q Well actually you were 18 when the  
6 event occurred. Is that correct?

7 A Yes.

8 Q Okay, you pled guilty some time  
9 later the next year. But I still think you  
10 were 18. do you recall what your sentence  
11 was?

12 A I believe it was 22 to 24 months  
13 confinement. Two years probation with some  
14 other conditions.

15 Q Okay, if it was 25 months does that  
16 sound reasonable to you?

17 A Yes, that's probably correct.

18 Q Okay, and as a result of that you  
19 were also ordered to have sex offender  
20 therapy. Do you recall that?

21 A I believe that was a condition,  
22 yes.

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1 Q And you were not allowed to view  
2 explicit sex materials. Do you recall that  
3 being a condition of your sentence?

4 A That is correct, yes.

5 Q And you also were required to  
6 submit to polygraphs whenever ordered to do  
7 so?

8 A That's correct.

9 Q And you were ordered to submit to  
10 plethysmographs. Do you remember that?

11 A Yes, that's correct.

12 Q And you paid Courts cost and  
13 attorneys fees. Do you remember that?

14 A Yes.

15 Q And a \$100 penalty.

16 A Sounds right.

17 Q Were you ever -- I'm sorry. I  
18 didn't mean to cut you off. What did you say?

19 A I said yes, that sounds correct.

20 Q Were you ever ordered to or did you  
21 ever submit to a plethysmographs?

22 A Not on probation. I did do a

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1 plethysmographs during incarceration.

2 Q Okay, explain to the Judge what  
3 that is.

4 A It's basically a peter meter test.  
5 That's what it's called. Essentially what  
6 happens is they hook a machine around your  
7 penis and they show you sexual explicit  
8 material anything from consenting adults to  
9 child pornography to rape scenes and they  
10 measure your responses to those.

11 Q And when you had the -- how do you  
12 pronounce it?

13 A I believe its plethysmographs.

14 Q Okay, when you --

15 JUDGE SIPPEL: Do you also have a  
16 spelling on that?

17 MS. LANCASTER: I have it Your  
18 Honor, it's P-L-E-T-H-Y-S-M-O-G-R-A-P-H.

19 JUDGE SIPPEL: Thank you.

20 BY MS. LANCASTER:

21 Q When you had that test done while  
22 you were incarcerated did you pass it?

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1           A       Well I don't know that there's  
2       pass, fail but I didn't score any -- we'd have  
3       to get the results for me to answer  
4       specifically. I don't recall -- but as I  
5       recall there was nothing inappropriate that  
6       arose from the plethysmographs.

7           Q       Did they show you child  
8       pornography?

9           A       Yes they did.

10          Q       Did you have any -- did you get an  
11       erection as a result of looking at it?

12          A       No, I don't believe I did.

13          Q       Okay, as part of your sentence,  
14       your parole after you -- what happened when  
15       you got out of incarceration. Did you go on  
16       parole?

17          A       Probation for two years.

18          Q       Probation is what they call it,  
19       okay. During that time I believe you just  
20       testified that you were never asked to take  
21       the -- whatever the name is -- plethysmographs  
22       test. Is that correct?

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1           A     That's correct.

2           Q     All right, but you were ordered to  
3 submit to a polygraph exam. Is that true?

4           A     That's correct.

5           Q     It's my understanding you refused  
6 to take the polygraph?

7           A     I read that in the reports but I do  
8 not recall ever refusing to take polygraph.

9           Q     Okay, do you recall taking the  
10 polygraph but refusing to answer the question  
11 as it was asked to you?

12          A     I seem to remember some discussion  
13 about that. But I don't remember too clearly.  
14 I know that the documentation says that. I'm  
15 not going to dispute it, but I don't remember  
16 clearly.

17          Q     Do you recall having sex offender  
18 treatment while you were incarcerated as an  
19 adult?

20          A     Yes.

21          Q     And you didn't do too well at that,  
22 did you?

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1           A       Not according to the write up that  
2       I read, the treatment report I read. I did  
3       not.

4           Q       In your opinion did you do well?

5           A       Yes, I think so. I remained crime  
6       free for 16 years almost. I think that shows  
7       something.

8           Q       Do you recall having to take  
9       classes as part of your sexual treatment, ex  
10      offender treatment?

11          A       That's right, that's a part of  
12      those college courses we were talking about  
13      earlier.

14          Q       Okay, and record reveals that you  
15      in fact failed the relapse prevention one and  
16      prevention two classes and the critical  
17      thinking workshop classes. Do you recall  
18      taking those classes?

19          A       I believe I did take those classes.  
20      I don't recall specifically what the names  
21      were. But I don't dispute that.

22          Q       The record also indicates that you

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1 revealed that at that time you were  
2 masturbating ten to 15 times a day. Is that  
3 true?

4 A I think the record was 10 or 15  
5 once, but not all the time. No, that's not  
6 totally correct.

7 Q Okay, and it also states that you  
8 were fantasizing about raping young boys. Do  
9 you recall that?

10 A No I do not.

11 Q Okay, so you just don't know. Are  
12 you disputing the account of the psychologist  
13 or are you saying you just don't recall?

14 MR. LYON: Objection, to the form  
15 of the question.

16 JUDGE SIPPEL: Wait a minute. Yes,  
17 let's get that clarified.

18 MR. LYON: I don't think there's  
19 been anything in the record to indicate it was  
20 a psychologist.

21 MS. LANCASTER: The sex offender  
22 treatment summary was drafted by Julie Aff,

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1 CMMCI and Michael Morris, a MA., CMHUS at Twin  
2 Rivers Correction Center. It's my  
3 understanding that those are psychologists or  
4 perhaps their sex offender counselors.

5 BY MS. LANCASTER:

6 Q Do you remember either of those  
7 people Mr. Titus?

8 A Yes, I do.

9 Q And what is your understanding of  
10 their education?

11 A Mr. Morris has a Masters Degree and  
12 he was the Community Mental Health Unit  
13 Supervisor I believe is what CMHUS stands for.

14 Julie Aff was brand new and she was  
15 a Certified Mental Health Counselor I. I  
16 believe her degree was a Bachelor's Degree at  
17 the most. She was very new.

18 Q Okay, the Master's Degree of Mr.  
19 Morris did you -- was that in counseling or  
20 psychology or some related field?

21 A Yes, something related. I don't  
22 know specifically.

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1 Q Okay, so are you -- I'll go back to  
2 my original question. Are you disputing Mr.  
3 Morris and Ms. Aff's account of what you told  
4 them at the time. Or you just don't recall  
5 it. Which is it?

6 A I don't recall it.

7 Q Okay, and if their report says that  
8 you reported that you were having fantasies  
9 about raping young boys, as far as you know  
10 that was true?

11 A No, that's false. I have to  
12 dispute that. I mean that's --

13 Q You remember specifically?

14 A I don't recall that.

15 Q You just don't recall it. Did you  
16 take Depo-Provera -- you had Depo-Provera  
17 treatment while you were incarcerated. Do you  
18 recall that?

19 A Yes.

20 Q And you had good results while you  
21 were on the Depo-Provera treatment?

22 A I don't believe so.

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1           Q     You don't believe so.     If the  
2     report indicates that you quit fantasizing  
3     about raping young boys and you quit  
4     masturbating so often each day would that be  
5     incorrect or you just don't recall?

6           A     When I read that that was a  
7     surprise to me.

8           Q     So you just don't recall it or you  
9     think it's incorrect?

10          A     I think it's incorrect.

11          Q     Okay, do you have any basis for  
12     thinking it's incorrect. Do you remember one  
13     way or another?

14          A     Well, I don't remember. I remember  
15     that I didn't notice anything with the Depo-  
16     Provera and there was only I think two or  
17     three injections. And my understanding is  
18     there wouldn't be really any effect from that  
19     small of a amount of injections. It was  
20     designed for a longer period of time and I  
21     stopped with the injections after around two  
22     or three shots I believe.

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1           Q     I believe the record indicates you  
2 refused any more treatments after three  
3 treatments. Does that sound correct?

4           A     Sounds right, yes that sounds  
5 right.

6           Q     Even though they tried to get you  
7 to continue the treatment because they felt it  
8 was effective?

9           MR. LYON: Objection, we don't know  
10 what they felt.

11          JUDGE SIPPEL: I'll sustain that.

12          MS. LANCASTER: Your Honor, the  
13 record indicates that the treatment was  
14 working. It's in the summary.

15          JUDGE SIPPEL: Do you have an  
16 exhibit number?

17          MS. LANCASTER: Hold on I do. Hold  
18 on.

19          MR. LYON: Unfortunately Your  
20 Honor, this an example where the declarant is  
21 not here and so I have no way to cross-examine  
22 on that.

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1 MS. LANCASTER: Your Honor, this  
2 portion of the record is already admitted into  
3 evidence. It's Exhibit 4, EB Exhibit 4.

4 JUDGE SIPPEL: EB 4?

5 MS. LANCASTER: Yes sir.

6 MR. LYON: Your Honor, the fact  
7 that it's admitted into evidence doesn't  
8 change the fact that I can't cross-examine on  
9 it. And we don't know what was in the mind --

10 JUDGE SIPPEL: Let me just --

11 MS. LANCASTER: EB 4, page 28.  
12 Well what are you trying to do just get him to  
13 confirm it?

14 MS. LANCASTER: Yes sir, I just  
15 want to -- you know, I'm trying to see what he  
16 remembers and point out that --

17 JUDGE SIPPEL: Why, well what's the  
18 purpose for this. Testing his memory or --

19 MS. LANCASTER: It's testing his  
20 truthfulness, Your Honor.

21 JUDGE SIPPEL: Well I mean he  
22 doesn't have to be --

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1 MS. LANCASTER: Well he says he  
2 doesn't remember and then he refutes that it  
3 occurred.

4 JUDGE SIPPEL: All right, take it  
5 one step at a time.

6 MR. LYON: My objection Your Honor,  
7 was to what was in the mind of some third  
8 person. I don't have any problem if she wants  
9 to ask what's in his mind.

10 JUDGE SIPPEL: What's the line that  
11 you're asking?

12 MS. LANCASTER: Well it starts --  
13 medication starts on line seven.

14 JUDGE SIPPEL: Yes.

15 MS. LANCASTER: And it talks about  
16 the Depo-Provera in that paragraph. The  
17 specific lines that it was effective I believe  
18 was 19 through 24.

19 MR. LYON: 19 through 34, I'm sorry  
20 I don't --

21 MS. LANCASTER: 24 lines you have  
22 to count down.

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1 MR. LYON: I have to count down?

2 MS. LANCASTER: Yes, I wrote mine  
3 in for quick reference.

4 JUDGE SIPPEL: All right, Depo-  
5 Provera but how many lines down from there are  
6 we going. The next sentence is staff notice.  
7 Is that the one?

8 MS. LANCASTER: Well you can start  
9 at line 14, "staff noticed behavioral changes.  
10 He was more open to feedback, willing to work  
11 on his issues and he spoke slower. Inmate  
12 Titus made the decision to discontinue the  
13 Depo-Provera treatment after the third dose.  
14 He stated he saw no changes in his behavior.  
15 Upon further questioning from the staff inmate  
16 Titus did self-report that is masturbation had  
17 stopped since he had started the Depo-Provera  
18 treatment. He had no more deviant fantasies  
19 or dreams of raping young boys. He still  
20 chose to refuse Depo-Provera treatment.  
21 Within a month inmate Titus self-reported that  
22 the dreams and fantasies of raping young boys

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1 had returned."

2 JUDGE SIPPEL: All right, that's  
3 what the document says.

4 MS. LANCASTER: Yes sir.

5 JUDGE SIPPEL: Now what was the  
6 nature of the objection?

7 MR. LYON: The question involved  
8 the state of mind of the author of this  
9 report. I objected on the basis that he can't  
10 answer what was in the mind of the author of  
11 this report.

12 MS. LANCASTER: Your Honor, that  
13 was an inaccurate question on my part. I  
14 wanted to get to was what was in the diagnosis  
15 and treatment summary and --

16 JUDGE SIPPEL: All right, you just  
17 read it.

18 MS. LANCASTER: Right.

19 JUDGE SIPPEL: Okay proceed, let's  
20 go forward.

21 MS. LANCASTER: Okay.

22 BY MS. LANCASTER:

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1           Q     Mr. Titus, are you aware that your  
2     treatment team noted a list of possible high  
3     risk situations that they indicated that you  
4     should avoid. Did they talk to you about that  
5     at all?

6           A     I don't remember specifically. I'm  
7     sure we talked about that. I'm sure I read  
8     that in the documentation. It was 15 years  
9     ago.

10          Q     If you would turn to page 24 of EB  
11     Exhibit 4. At the bottom of the page, the  
12     paragraph is entitled relapsed prevention.

13                JUDGE SIPPEL: What page is that  
14     again?

15                MS. LANCASTER: Page 24 of EB  
16     Exhibit 4.

17                JUDGE SIPPEL: Thank you.

18                BY MS. LANCASTER:

19          Q     And I believe the treatment that  
20     they advocated would be that you avoid --

21                MS. LANCASTER: Oh, did he leave?

22                THE WITNESS: No, I'm here I'm just

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